

OCT 28 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

F.N.,

Plaintiff - Appellant,

v.

PROVIDENT LIFE & ACCIDENT
INSURANCE, a Tennessee corporation,

Defendant - Appellee.

No. 02-35815

D.C. No. CV-01-00457-REJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Robert E. Jones, District Judge, Presiding

Submitted October 8, 2003**
Seattle, Washington

Before: D.W. NELSON, KOZINSKI, and McKEOWN, Circuit Judges.

F.N. appeals the dismissal of his claim below on a Federal Rule of Civil

Procedure 12(b)(6) motion to dismiss.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

F.N. waived his claim for declaratory relief by failing to allege it in his Second Amended Complaint.

F.N. has not alleged facts that would give rise to a claim for intentional infliction of emotional distress or breach of the implied covenant of good faith and fair dealing.

The ruling of the district court is

AFFIRMED.